



# Briefsheet

## Municipal Stormwater Permitting

### Issue

The first implementation phase (Phase I) of the Clean Water Act requirements for municipal stormwater discharges, mandates National Pollutant Discharge Elimination System (wastewater discharge) permits for municipalities meeting the following criteria:

1. The municipality has a separate storm sewer system discharging to surface water or drainage ditches, etc. that discharge to surface water, and
2. The population of the municipality, served by the storm sewer system exceeds 100,000.

### Background

In Washington state, the U.S. Environmental Protection Agency (EPA) delegated its authority to administer the federal wastewater discharge permit program to the Department of Ecology.

Permits for the discharge of wastewater are a primary foundation of the state's water pollution control activities. Permits are normally applied to discrete facilities, such as sewage treatment plants.

Municipal stormwater discharges can contain many of the pollutants, such as metals and organic compounds traditionally found in wastewater from discrete facilities, and can definitely harm our state's lakes, rivers, marine waters, and ground water. Unlike other wastewater discharges, the sources of stormwater pollutants are diffuse and highly variable. Pollutants come from roads, parking lots, residential, commercial, and industrial activities within each municipality.

Therefore, control of municipal stormwater does not fit nicely with traditional wastewater discharge permit requirements. This, at least partially, accounts for the delays in promulgation of federal stormwater rules and in implementing water pollution control measures. The difficulty in permitting and controlling such diffuse sources of pollution also accounts, in part, for the continuing controversy concerning whether the federal discharge permit program is the proper legal

mechanism for regulating municipal stormwater. Some parties have proposed amendments to the Clean Water Act to eliminate the permit requirement.

On July 5, 1995, Ecology issued three general wastewater discharge permits to cover the stormwater discharges for the cities of Seattle; and Tacoma; the counties of King, Pierce, and Snohomish; and discharges from state highways managed by the Department of Transportation within those jurisdictions. The permits contain conditions for compliance with both federal and state requirements and are issued as combined National Pollutant Discharge Elimination System and State Wastewater Discharge permits.

Clark County is in the permit application process prescribed in federal rules. The city of Spokane requested and received an exemption as allowed under federal rules because part of its population is served by a combined storm/sanitary sewer system. Spokane County has also requested an exemption from federal stormwater permitting because it has very little stormwater discharging to surface waters. Most of its stormwater infiltrates into the ground. Federal rules do not allow an exemption in this case. Therefore, Ecology has decided to delay the county's application deadline. The county's deadline will correspond to the city of Spokane's deadline which will be set when the EPA promulgates new rules applicable to smaller municipalities.

Ecology has the authority under federal regulations to issue permits to other municipalities if their stormwater discharges contribute pollution to a lake, river, or marine water shared with other permitted municipalities. Ecology may also issue permits if a municipalities discharge of stormwater is a significant contributor of pollutants. To date, Ecology has not proceeded with either of these options. Other non-regulatory activities address stormwater pollution. If those activities are not effective in managing the pollution, Ecology will consider other regulatory actions.

## **Current Situation**

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Ecology plans to integrate municipal stormwater permits into its watershed approach to water quality management. To achieve this, general permits were issued to cover the watershed management areas in which the large municipalities are located. The initial permits contain specific requirements for the large municipalities and the Department of Transportation. They also contain requirements to coordinate where these municipalities share waterways. Coverage for smaller municipalities will be phased in over time according to future federal requirements.

The long-term goal of the permits is to control the pollutants and flow rates of stormwater discharges so that the water quality standards in the rivers, streams, marine waters, lakes, and ground water are not violated. The primary requirement of the initial permits is the development and implementation of stormwater management program-aimed at moving the permit holders' existing stormwater programs further towards the long-term goal. Ecology recognizes that this is a difficult challenge for municipalities, and that many unknowns exist. Therefore, the permit conditions allow a phased approach to stormwater control that will take many years to implement.

## **Areas of Controversy**

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During the public comment period for the permits, municipalities, individuals, and organizations expressed concerns including the following:

- ◆ Disruption of existing local stormwater pollution control efforts by new federal and state requirements;
- ◆ Ability of permit holders to fund new requirements in light of already overburdened local and state agency budgets, revenue sources, and competing priorities;
- ◆ Ecology's use of state authority to include ground water concerns in the permit and hence go beyond federal requirements; and
- ◆ Need for flexibility in local program requirements due to varying local situations.
- ◆ Lack of specifics on what Ecology would consider an approved stormwater management program.
- ◆ Exclusion of jurisdictions, within the watershed, which were not required to be permitted yet by federal rules.

## **Status of Stormwater Management Programs**

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All five municipalities under federal stormwater permits and the Department of Transportation have proposed stormwater management programs. Ecology is reviewing the proposals, and will conduct public hearings on them in 1997. After the hearings, Ecology will decide whether to approve the programs or ask for revisions. Ecology is also advising Clark County as it prepares its permit application.

## **Future Considerations**

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The EPA established a Federal Advisory Committee, consisting of a wide range of interests to do the following.

- ◆ Provide advice on improvements to the Phase I program;
- ◆ Suggest new watershed-based approaches to controlling all wet weather-related discharges; and
- ◆ Make recommendations regarding the Phase II stormwater program required by the Clean Water Act.

Phase II involves controlling stormwater discharges from commercial, retail, and institutional facilities, from construction activities disturbing less than five acres, and from municipal separate storm sewer systems serving less than 100,000 people. The EPA has issued an interim rule which establishes October 2001 as the deadline for Phase II municipalities to have federal wastewater discharge permits. However, the agency plans to propose a new Phase II rule in September 1997 after considering the advice of the Federal Advisory Committee.

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